

### **REMARKS**

Upon entry of the foregoing Amendment, Claims 50-63 are pending in the application. Claims 50 and 53 have been amended. Support for the amendment of Claim 50 can be found in at least paragraphs [0050] and [0100]. Support for the amendment of Claim 53 can be found in at least paragraphs [0055] through [0070]. No new matter has been introduced.

On October 19, 2009, Applicants' representative contacted the Examiner of record relating to the rejection under 35 U.S.C. § 102(b) of canceled claims and not reciting the currently pending claims in the Office Action dated September 29, 2009. The Examiner indicated that a Supplemental Office Action would be issued correcting these inconsistencies.

In the Office Actions of September 29, 2009 and October 27, 2009, the Examiner set forth a number of grounds for rejection. These grounds are addressed individually and in detail below.

#### **Claim Rejection Under 35 U.S.C. § 112, First Paragraph**

Claim 53 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts that there is no support for embodiment (ix) in the specification. Applicants respectfully traverse the rejection.

Claim 53 has been amended to recite a "blend of PP with a saturated styrenic block copolymer." The amendment is supported by the specification on page 4, lines 16-17.

In view of the foregoing, Applicants respectfully submit that the grounds of rejection have been obviated and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is respectfully requested.

**Claim Rejection Under 35 U.S.C. § 112, Second Paragraph**

Claim 53 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner asserts that Claim 50, from which Claim 53 depends, requires the film to comprise components (a) and (b) and that it is not clear whether compositions (i) through (ix) are added to components (a) and (b) or further limit components (a) and (b). Additionally, the Examiner indicates that some embodiments, such as composition (ix) would not read on (a) and (b) and that, further, the specification would not contain support for compositions (i) through (ix) blended with components (a) and (b). Applicants respectfully traverse the rejection.

Claim 50 recites a core layer comprising (a) a polypropylenic (PP) component and (b) a polyethylenic (PE) component or a polystyrenic (PS) component. Compositions (i) through (ix) in claim 53 each contains a PP component and a PE or PS component. For example, composition (i) of Claim 53 contains (a) PP homopolymer as a PP component and (b) PE homopolymer as a PE component. Similarly, composition (ix) of Claim 53 contains (a) PP as a PP component and (b) a saturated styrenic block copolymer as a PS component. Therefore, Claim 53 is a proper dependent claim that further limits the core layer compositions of Claim 50 to the species recited in compositions (i) to (ix).

In view of the foregoing, Applicants respectfully submit that the grounds of rejection have been obviated and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

**Claims Rejections Under 35 U.S.C. § 102**

Claims 50-63 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Taniguchi et al. (WO 99/62987, English language equivalent U.S. 6,541,123 B1), (hereinafter “Taniguchi”) as evidenced by US 4,093,342. Applicants respectfully disagree.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

In this case, the present independent Claim 50, as amended, is directed to a polyolefin single or multi-layer film, comprising at least one core layer comprising: (a) a polypropylenic (PP) component; and (b) a polyethylenic (PE) component or a polystyrenic (PS) component, wherein said film is so formed and biaxially oriented to have a dynamic loss modulus (E’'), measured at 3 Hz and 25°C, from about 28 MPa to about 136 MPa in the transverse direction (TD) and/or from about 73 MPa to about 135 MPa in the machine direction (MD), and a dynamic storage modulus (E’), measured at 3 Hz and 25°C, from about 630 MPa to about 2800 MPa in the TD and/or from about 1300 MPa to about 3000 MPa in the MD.

In contrast, Taniguchi generally describes a polyolefin stretch packaging film. As detailed in the Response filed August 27, 2009, Taniguchi does not disclose a film having a dynamic storage modulus (E’) of about 630-2800 MPa in the TD and/or of about 1300-3000 MPa in the MD, as recited the instant Claim 50.

The Examiner admits that Taniguchi does not disclose the claimed dynamic storage modulus (E') range, but takes the position that the oriented film of Taniguchi inherently meets the claimed dynamic storage modulus (E') range since the film is compositionally and structurally identical to the claimed film. Applicants respectfully disagree.

As recited in the amended Claim 50, the claimed film is “so formed and biaxially oriented to have ... a dynamic storage modulus (E'), measured at 3 Hz and 25°C, from about 630 MPa to about 2800 MPa in the TD and/or from about 1300 MPa to about 3000 MPa in the MD.” A person of ordinary skill in the art would understand that a polyolefin single or multi-layer film comprising at least one core layer comprising (a) a polypropylenic (PP) component and (b) a polyethylenic (PE) component or a polystyrenic (PS) component **does not necessarily** have a dynamic storage modulus (E'), measured at 3 Hz and 25°C, from about 630 MPa to about 2800 MPa in the TD and/or from about 1300 MPa to about 3000 MPa in the MD, as recited in Claim 50. In other words, the recited dynamic storage modulus (E') range is a meaningful limitation to the claimed film. A polyolefin single or multi-layer film comprising at least one core layer comprising (a) a polypropylenic (PP) component and (b) a polyethylenic (PE) component or a polystyrenic (PS) component can only be formed and oriented under certain conditions to obtain a dynamic storage modulus (E'), measured at 3 Hz and 25°C, from about 630 MPa to about 2800 MPa in the TD and/or from about 1300 MPa to about 3000 MPa in the MD.

For example, as pointed out by the Examiner, dynamic storage modulus is known to increase with orientation. Therefore, two polyolefin films with identical composition and structure may have different dynamic storage modulus if they are oriented differently. The claimed film is “so formed and biaxially oriented to have ... a dynamic storage modulus (E'), measured at 3 Hz and 25°C, from about 630 MPa to about 2800 MPa in the TD and/or from

about 1300 MPa to about 3000 MPa in the MD.” A person of ordinary skill in the art would have no reason to believe that the film of Taniguchi will necessarily have a dynamic storage modulus (E’) in the claimed range. In fact, Taniguchi specifically teaches that “[A]s the film of the present invention, **it is required** to use one having a storage modulus (E’) of from  $5.0 \times 10^8$  dyn/cm<sup>2</sup> to  $5.0 \times 10^9$  dyn/cm<sup>2</sup>.” Accordingly, although Taniguchi describes that blown film may be further oriented 1.2 to 5 times in each direction, the oriented film would still have the storage modulus (E’) described above, which is outside the range recited in Claim 50. It would be impossible to assert that Taniguchi would specifically teach a method to produce a film with a storage modulus (E’) that is outside the required range.

Therefore, Taniguchi does not anticipate Claim 50 because it does not teach or suggest every element as set forth in the claim. Claims 51-63 are patentable over Taniguchi because they depend from Claim 50 and recite additional patentable subject matter.

In view of the foregoing, Applicants respectfully submit that the grounds for this rejection have been obviated and that withdrawal of the rejections under 35 USC § 102(b) is respectfully requested.

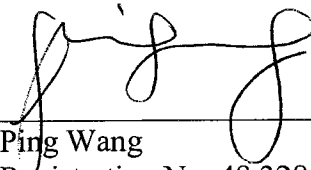
## CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is invited to contact Applicants' counsel, Ping Wang, (Reg. No. 48,328), at 202.842.0217.

Respectfully submitted,

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